

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Peter D. Kwong et al.

Serial No. : Not Yet Known
(U.S. National Stage of PCT/US98/23905,
filed 10 November 1998)

Filed : Herewith

For : CRYSTAL COMPRISING HUMAN IMMUNODEFICIENCY VIRUS ENVELOPE GLYCOPROTEIN gp120, COMPOUNDS INHIBITING CD4-gp120 INTERACTION, COMPOUNDS INHIBITING CHEMOKINE RECEPTOR-gp120 INTERACTION, MIMICS OF CD4 AND gp120 VARIANTS

1185 Avenue of the Americas
New York, New York 10036

Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF OFRA WEINBERGER PH.D. IN
SUPPORT OF PETITION TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)

I, Ofra Weinberger, Ph.D. hereby declare that:

1. At all relevant times, I have been either an Associate Director or Director of the Health Sciences Division, Columbia Innovation Enterprise ("CIE") located at Columbia University in the City of New York, the coassignee (as The Trustees of Columbia University in the City of New York) of the above-identified PCT application together with Dana-Farber Cancer Institute, Boston, Massachusetts. CIE is an office of Columbia University which is the liaison with outside patent counsel.
2. At all relevant times, I had responsibility for instructing outside patent counsel at Cooper & Dunham LLP, including John P. White, regarding PCT International

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Application No. PCT/US98/23905 ("the PCT application").

3. This Declaration is submitted in support of a Petition to Revive an Unintentionally Abandoned Application under 37 C.F.R. §1.137(b) in connection with the PCT Application. The deadline for entering the PCT Application into the United States national stage was May 10, 2000, i.e. thirty (30) months from the United States priority date.
4. At a March 7, 2000 meeting with Mr. White, we discussed the deadline for national stage entry of the PCT Application in the designated countries but did not make a decision. I told Mr. White that I would advise him at a future date whether to proceed with national stage entry by the May 10, 2000 deadline.
5. On May 9, 2000, Joshua Landa, a legal assistant of Mr. White, telephoned me to obtain instructions concerning the designated countries, if any, in which the PCT application was to enter the national or regional stage. I mistakenly instructed Mr. Landa that Columbia did not wish that the subject PCT Application enter the national or regional stage. I intended my instructions to apply only to the designated "foreign" countries, not to the United States. It was always my intention that the subject PCT Application enter the national stage in the United States.
6. Due to my unintentional oversight, applicants failed to

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enter the national stage in the United States by the May 10, 2000 deadline.

7. Mr. White confirmed his understanding of my instructions in a letter dated May 9, 2000. Due to my unintentional oversight, I believed that Mr. White's letter confirming my instructions not to enter the national or regional stage applied only to the designated "foreign" countries, and I failed to notice that the United States was listed together with the designated "foreign" countries.
8. On or about May 22, 2000, I reviewed Mr. White's May 9, 2000 letter and became aware that the subject PCT Application had not in fact entered the national stage in the United States.
9. On May 22, 2000, I contacted Elizabeth Wieckowski, an associate of Mr. White, by telephone to confirm my understanding of the May 9, 2000 letter. I advised Ms. Wieckowski that I had not intended to abandon the subject PCT Application in the United States and requested that whatever action was necessary be taken so that the PCT Application would enter the national stage in the United States.
10. On May 23, 2000 I transmitted to Mr. White instructions to proceed with reviving the unintentionally abandoned national stage of the PCT Application in the United States.

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11. The entire delay in filing the U.S. national stage transmittal papers, from the May 10, 2000 due date for national stage entry, until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b), was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 5/3/01

Ofra Weinberger
Ofra Weinberger, Ph.D.
Director, Health Sciences Division
Columbia Innovation Enterprise